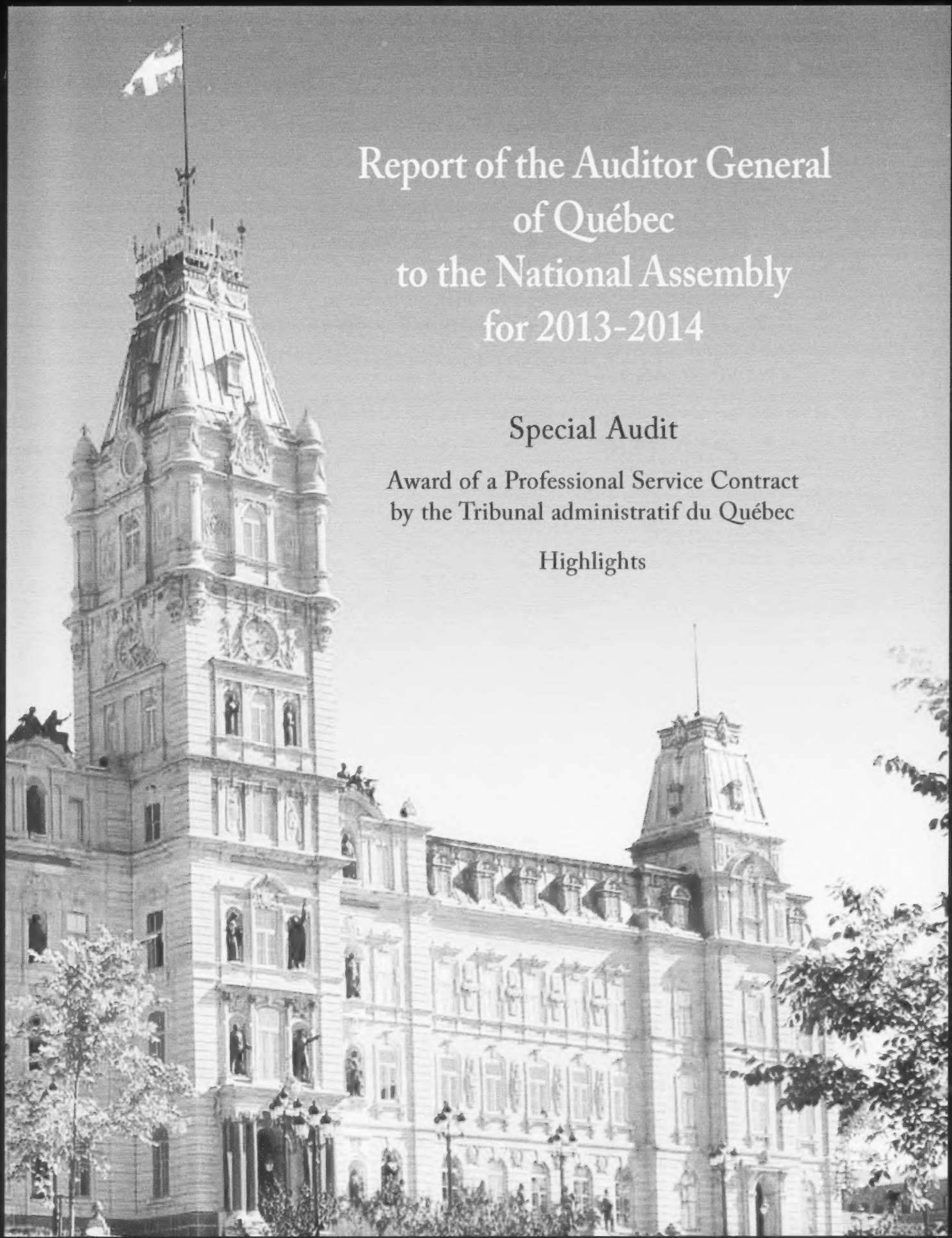


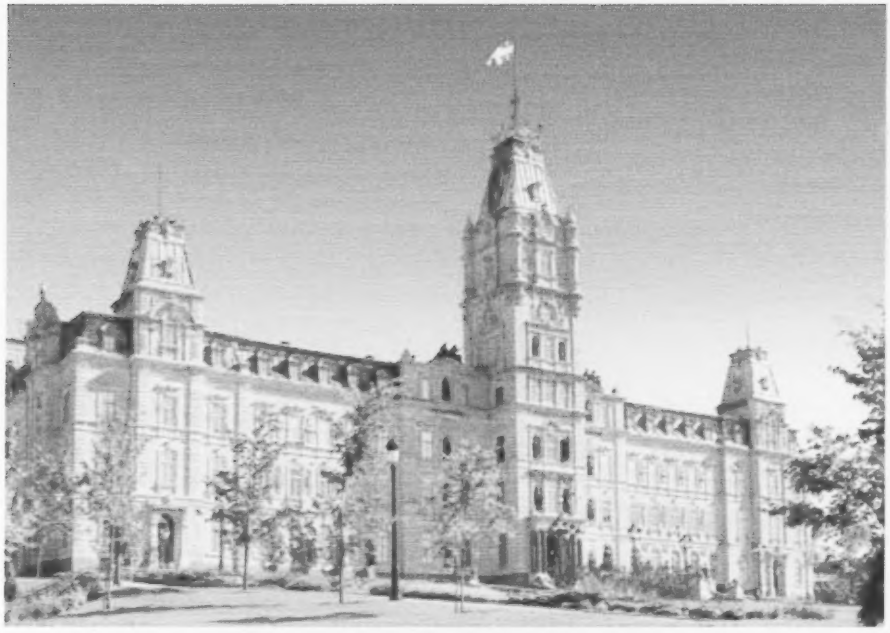
Report of the Auditor General of Québec to the National Assembly for 2013-2014

Special Audit

Award of a Professional Service Contract by the Tribunal administratif du Québec

Highlights

Cover photo
Parliament Building, *Daniel Lessard*, National Assembly Collection



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Work Objective

On June 11, 2013, the Conseil du trésor sent the Auditor General a request for a special audit concerning the award by the Tribunal administratif du Québec (TAQ) of a professional service contract to Ms. Luce Gayrard, under the signature of the ex-president of the TAQ, Ms. Hélène de Kovachich.

The purpose of our audit was to determine whether this legal service contract was awarded in accordance with the regulation and according to sound management practices.

The Report is available at http://www.vgq.qc.ca.

Audit Results

We present here the principal findings of our special audit work concerning the award of a professional service contract to Ms. Luce Gayrard, attorney-at-law.

Contrary to the procedures applicable to judicial authorities, the authorization of financial commitments related to the legal representation or assistance of a member of the TAQ is not subject to an external examination. The president, who is also a member of the TAQ, is the one assigned the responsibility of authorizing the request for the financial support of a member, which represents an important risk with regard to the transparency and the impartiality of that decision.

The absence of specific guidelines concerning legal service fees did not make it possible for the TAQ to ensure that the contracts awarded represented a judicious use of public funds. The average hourly rate paid for legal service contracts in the last five years is close to $305, which is more than double the rate used by the Ministère de la Justice du Québec in similar circumstances.

The TAQ has not specified the terms that would enable it to determine the situations in which covering the legal fees for the representation of members is justified. In fact, it has paid this type of fee only for the representation of members who were the subject of a complaint before the Conseil de la justice administrative or of a threat affecting their physical safety, with the exception of the contract awarded to Ms. Gayrard.

The award of the contract to Ms. Gayrard and the follow-up of it that was done derogated from the principle of transparency in the management of public funds. In addition, the merit of having the TAQ cover the expense related to the representation of the member concerned has not been demonstrated.

The award of the contract, under the sole signature of the TAQ's ex-president, was not done in a context of impartiality. Indeed, under that contract, the ex-president herself was the member to be represented. Despite the risk of conflict of interest, she did not adequately use the TAQ's internal or external resources as a safeguard measure.

The way the contract was awarded is inadequate in the context of the use of public funds, given that it was not awarded in total transparency and total impartiality. It rests with the TAQ to determine whether or not it was justified for the State to cover the legal fees associated with this type of contract. It will also be necessary for the TAQ to take appropriate measures to correct the situation, where needed, and to avoid having such a situation reoccur.

Recommendations

The Auditor General has made recommendations to the TAQ. All of them are shown to the right.

The audited entity as well as the ex-president of the TAQ had the opportunity to comment on these recommendations; their comments can be found in the *Commentaires de l'entité vérifiée* Section.

We want to point out that the entity accepted all of the recommendations.

Recommendations to the Tribunal

1. **Implement an examination mechanism ensuring the transparency and impartiality of decisions made with respect to financial commitments related to the legal representation or assistance of members of the Tribunal, before such commitments are authorized.**
2. **Adopt a contract management process for legal services that is inspired by sound management practices in this area. This process should include, especially:**
   - **specific guidelines concerning legal service fees;**
   - **directives aimed at determining the situations in which it is justified for the Tribunal to cover legal fees for the representation of members.**
3. **Adopt a directive on the disclosure and management of conflict of interest situations in order to facilitate ethical decision making.**
4. **Determine, on the basis of knowledge of the legal file, the rules in force, the jurisprudence and the government notices, the relevance for the Tribunal to assume the fees related to the contract awarded to Ms. Gayrard, and document the decision made.**

Significance of the Logo

An easy-to-recognize building, the Parliament, where the National Assembly sits. It is this authority which has entrusted the Auditor General with his mission and to which he reports.

Three dynamic lines, illustrating:

- the three types of audits carried out by his staff, namely financial audits, audits of compliance with statutes, regulations, policies and directives, as well as value-for-money audits;
- the three elements that are examined during value-for-money work: economy, efficiency and effectiveness;
- the three fields–social, economic and environmental–related to the stakes concerning sustainable development.

A truly distinctive sign, the logo of the Auditor General clearly illustrates that this institution, which is in constant evolution, aims to assist elected members in their desire to ensure the sound management of public funds, for the benefit of the citizens of Québec.

Acting Auditor General

On November 29, 2011, the President of National Assembly appointed Mr. Michel Samson as Acting Auditor General of Québec.

Since January 1, 2008, Mr. Samson held the position of Assistant Auditor General. He was responsible for several teams of experts in charge of carrying out value-for-money audits with government entities, whose scope and vocation were highly varied. The projects that he conducted mainly concerns such areas as education, transportation, culture and finance. Moreover, since 2010, he supervised the general directorate that offers value-for-money audit advisory services for its staff.

It was in 1990 that Mr. Samson joined the staff of the Auditor General. He began by working as a professional for six years in Québec City, being mainly assigned to value-for-money audits. He went on to accept a senior management position at the Montréal office; the files on which he worked concerned both financial audits and management audits.

His commitment and versatility bore fruit. In 2003, he returned to Québec City where he would serve as senior director, overseeing some thirty employees up until 2005. He is credited with numerous reports, which take stock of the practices used in, and the financial information produced by the Administration. He was entrusted with key sectors, which allowed him to demonstrate his ability to successfully complete particularly demanding assignments. The main components of his mandate were related to education, justice, modernization of government management, and computer systems.

Over the last few years, Mr. Samson heads four auditing directorates specializing in value-for-money audits. He carried out a significant share of the audit engagements completed on behalf of the National Assembly. Moreover, since being hired, he has often participated in special audits or overseen their completion.

As for his other professional activities, this experienced manager has contributed to the efforts made by all Canadian legislative auditors to promote the quality of information on performance published in the public sector. In addition, he has hosted training sessions on value-for-money auditing (Institute of Internal Auditors, Morocco Audit Institution, etc.) on many occasions. Finally, he has been a member of numerous in-house committees, including the one responsible for the organization's strategic planning from 2000 to 2006.

Before joining the ranks of the Auditor General, Michel Samson worked for two accounting firms. As a partner, he carried out financial auditing work for small and medium-sized businesses in the manufacturing sector.

A member of the Ordre des comptables agréés du Québec since 1984, which was brought into the Ordre des comptables professionnels agréés du Québec in May 2012, he holds a bachelor's degree in business administration and a licence in accounting sciences, both of which he received from Université Laval in 1981.

This publication
was produced by

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